INDEX

	Page
Opinions below	1
Jurisdiction	1
Question presented	2
Statute involved	2
Statement	3
Argument	4
Conclusion	10
Appendix A (legislative history)	11
Appendix B (statutory provisions relating to jurisdiction of the Circuit Courts of Appeals in various classes of cases)	14

CITATIONS

Cases:	
Fowler v. *Commissioner of Internal Revenue*, 42 F. (2d) 887	9
Massachusetts Fire and Marine Ins. Co. v. *Commissioner of Internal Revenue*, 42 F. (2d) 190	6, 8
Old Colony Trust Co. v. *Commissioner of Internal Revenue*, 279 U. S. 716	7
Simmons v. *Commissioner of Internal Revenue*, 33 F. (2d) 75, certiorari denied, 280 U. S. 566	8
Spring Canyon Coal Co. v. *Commissioner of Internal Revenue*, 33 F. (2d) 764	5
Statutes:	
Act of September 26, 1914, c. 311, Sec. 5, 38 Stat. 717, 719 (U. S. C., Title 15, Secs. 45, 46)	17–18
Act of October 15, 1914, c. 323, Sec. 11, 38 Stat. 730, 734–736 (U. S. C., Title 15, Sec. 21)	17
Act of August 15, 1921, c. 64, Sec. 204, 42 Stat. 179, 182–183 (U. S. C., Title 7, Sec. 194)	19–20
Act of September 21, 1922, c. 369, Sec. 6, 42 Stat. 998, 1002 (U. S. C., Title 7, Sec. 9)	18–19
Act of February 13, 1925, c. 229, 43 Stat. 936 (U. S. C., Title 28, Sec. 225)	14
Revenue Act of 1926, c. 27, 44 Stat. 9, 109–110:	
Sec. 1001 (U. S. C. App., Title 26, Sec. 1224)	20
Sec. 1002 (U. S. C. Sup. IV, Title 26, Sec. 1225)	3, 20–21
Sec. 1003 (U. S. C. Sup. IV, Title 26, Sec. 1226)	21
Congressional documents:	
H. R. No. 1, 69th Cong., 1st sess., p. 285	13
House Report No. 1, 69th Cong., 1st sess., pt. 1	9–10, 11
House Report No. 356, 69th Cong., 1st sess., p. 54	12
Senate Report No. 52, 69th Cong., 1st sess., p. 26	6, 12

In the Supreme Court of the United States

OCTOBER TERM, 1930

No. 549

NASH-BRESLER MOTOR COMPANY, FORMERLY TROY MOTOR SALES COMPANY, PETITIONER

v.

DAVID BURNET, COMMISSIONER OF INTERNAL REVENUE

BRIEF FOR THE RESPONDENT

OPINIONS BELOW

The opinion of the Board of Tax Appeals is reported in 14 B. T. A. 546. The opinion of the Circuit Court of Appeals (R. 33–34) is reported in 42 F. (2d) 192.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on June 16, 1930. (R. 34.) This Court on September 12, 1930, extended the time within which petition for certiorari might be filed for a period of sixty days from September 16, 1930. (R. 35.) Petition for certiorari was filed on No-

vember 15, 1930, and certiorari was granted on January 5, 1931. (R. 37.) The jurisdiction of this Court is based upon Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTION PRESENTED

Where the Commissioner and a corporate taxpayer stipulate that a decision of the Board of Tax Appeals may be reviewed by a Circuit Court of Appeals other than that for the circuit in which is located the office of the collector to whom the taxpayer made its tax return, has that Circuit Court of Appeals jurisdiction under Section 1002 of the Revenue Act of 1926?

STATUTE INVOLVED

Revenue Act of 1926, c. 27, 44 Stat. 9 (U. S. C. Sup. IV, Title 26, Sec. 1225):

VENUE

SEC. 1002. Such decision may be reviewed—

(a) In the case of an individual, by the Circuit Court of Appeals for the circuit whereof he is an inhabitant, or if not an inhabitant of any circuit, then by the Court of Appeals of the District of Columbia.

(b) In the case of a person (other than an individual), except as provided in subdivision (c), by the Circuit Court of Appeals for the circuit in which is located the office of the collector to whom such person made the re-

turn, or in case such person made no return, then by the Court of Appeals of the District of Columbia.

(c) In the case of a corporation which had no principal place of business or principal office or agency in the United States, then by the Court of Appeals of the District of Columbia.

(d) In the case of an agreement between the Commissioner and the taxpayer, then by the Circuit Court of Appeals for the circuit, or the Court of Appeals of the District of Columbia, as stipulated in such agreement.

STATEMENT

The taxpayer, a corporation organized under the laws of Delaware, had its principal office at Los Angeles, California, and was engaged in buying and selling automobiles in Southern California and Arizona. It filed income and profits tax returns for the years in question with the Collector of Internal Revenue for its district (presumably, Los Angeles, California). (R. 20–21.) The Commissioner determined deficiencies for the years in question, from which the taxpayer appealed to the Board of Tax Appeals. (R. 7–10, 10–12.) After a hearing before the Board, the Board entered orders of redetermination showing deficiencies and also unpaid tax liabilities. (R. 21, 22.) Before the filing of a petition for review of the Board's decision, the attorney for the taxpayer and the attorney for the Commissioner signed and filed the

following stipulation, which is a part of the record (R. 23-24):

> It is hereby agreed and stipulated by and between the parties in the above-entitled cause, by their respective attorneys, that the decision and orders of the United States Board of Tax Appeals in the said cause, dated the 16th of March, 1929, redetermining the amount of income and profits taxes of the said Troy Motor Sales Company for the fiscal years ending June 30, 1920 and June 30, 1921, may be reviewed by the United States Circuit Court of Appeals for the Second Circuit.
>
> This agreement is made under and pursuant to the provisions of Section 1002 of the Revenue Act of 1926.

Thereafter, the taxpayer filed a petition for review in the Circuit Court of Appeals for the Second Circuit, setting forth that the parties had agreed that the review should be in that court, as evidenced by the above-mentioned stipulation. (R. 24.) The Circuit Court of Appeals for the Second Circuit dismissed the petition for lack of jurisdiction, without prejudice to the petitioner's right to a review by the proper Circuit Court of Appeals. (R. 34, 35.)

ARGUMENT

The question as to whether or not the Circuit Court of Appeals had jurisdiction under Section 1002 (d) of the Revenue Act of 1926 in this case

was not raised by the Commissioner or Internal Revenue but by the court itself.

Section 1002 (d) has been construed in three different ways:

(1) The petitioner construes it to authorize a review in the Circuit Court of Appeals for any circuit agreed upon by the taxpayer and the Commissioner. The arguments in support of this contention will be found in the brief for the petitioner.

(2) The Circuit Court of Appeals for the Eighth Circuit in *Spring Canyon Coal Co.* v. *Commissioner of Internal Revenue*, 38 F. (2d) 764, construed paragraph (d) as permitting the Commissioner and the taxpayer to stipulate for an appeal from the Board of Tax Appeals either to the Court of Appeals of the District or that Circuit Court of Appeals which is designated for the case under paragraphs (a), (b), and (c). If the statute should be construed in this way, it was unnecessary to include in paragraph (d) any reference to Circuit Courts of Appeals, because in view of the preceding provisions in paragraphs (a), (b), and (c), no stipulation would be necessary to lay the venue there. Under this construction, a stipulation would be necessary only in order to procure a hearing before the Court of Appeals of the District in a case in which that court was not specifically designated as the proper court in paragraphs (a), (b), or (c).

(3) The Circuit Court of Appeals for the Second Circuit has apparently adopted a construction slightly different from that adopted in the *Spring Canyon Coal Co. case, supra.* The arguments in favor of this construction are set forth in the opinion of that court in *Massachusetts Fire and Marine Insurance Co. v. Commissioner of Internal Revenue*, 42 F. (2d) 189, which was followed in this case. That case construes Section 1002 as permitting the parties to stipulate for appeal to the Court of Appeals of the District or the Circuit Court of Appeals for any Circuit in which it may appear that there is some reason to believe venue would lie under subparagraph (a), (b), or (c).

For the latter construction the court below relies particularly upon the legislative history of the section, and especially the statement in the report of the Senate Committee that subparagraph (d) was added "in order that any doubt as to the proper court may be removed by stipulation." Senate Reports, Volume 1, Rep. No. 52, 69th Cong., 1st Sess., p. 36 (p. 12, *infra*). In Appendix A hereof we give the legislative history of the Act. It seems to us doubtful whether, taken as a whole, it supports the conclusion of the court below. In view of the fact that the Senate, in order to remove doubt, added subdivision (d) of this section, it would seem that doubt as to the proper circuit could arise only in those cases in which it is doubtful whether an individual taxpayer is an inhabitant of one circuit or of

another and in those very rare cases where there is question whether a corporation which has not filed a return had or had not a place of business or an office in the United States.

It should be pointed out that Section 1002(c) relates only to venue and not to the jurisdiction of the Circuit Courts of Appeals. This is plain from the heading of Section 1002. Section 1003 expressly relates to jurisdiction. In considering the constitutionality of the provisions for review of the decisions of the Board of Tax Appeals in *Old Colony Trust Company* v. *Commissioner of Internal Revenue*, 279 U. S. 716, this Court said, at page 726:

> By Section 1002 it is provided in what venue the decision may be reviewed.

While it is true, as suggested by the court below, that the venue of the Federal courts usually depends upon the territorial situation of the parties, this is not universally so. In Appendix B to this brief (pp. 14–21, *infra*) the provisions of various statutes relating to review by the Circuit Courts of Appeals are set forth. It appears that the venue of the Circuit Courts of Appeals under those statutes does not always depend upon the territorial location of the litigants. This is particularly true in connection with applications by the Interstate Commerce Commission, Federal Reserve Board and Federal Trade Commission, which are given a certain latitude in selecting the Circuit Court of Appeals to which application will be made. Nowhere, however, is the selection of the Circuit

Court of Appeals left without limit to the stipulation of the parties, unless the present statute is so construed.

The court below also suggested that if paragraph (d) were to be given the construction for which the petitioner contends, it would be a departure from the usual provision that the venue of the Federal courts depends upon the "territorial incidence" of suits. The court also suggested that a construction "to admit a wider choice [than that allowed by the view of that court] would recognize motives which we can scarcely believe would have had the ear of Congress." 42 F. (2d) 189, 190, 191.

We know of no discussions of the point here involved except those in the cases referred to above. The Commissioner has in a number of cases entered into stipulations with taxpayers for appeals before various Circuit Courts of Appeals without regard to whether there was any basis for believing that they were the courts designated by paragraphs (a), (b), and (c) of Section 1002. The Circuit Court of Appeals for the First Circuit took jurisdiction in a case in which apparently the sole basis therefor was a stipulation. Although we are informed that the court considered the question, it did not mention it in its opinion. *Simmons* v. *Commissioner of Internal Revenue*, 33 F. (2d) 75. This Court denied certiorari (280 U. S. 588), but the question of venue or jurisdiction was not suggested to this Court.

In *Fowler v. Commissioner of Internal Revenue*, 42 F. (2d) 837, a similar situation was presented to the Circuit Court of Appeals for the Second Circuit. Although final decree in that case was entered by that court after the date of final decree in the present case and although the disposition of the present case was called to its attention, the court declined to vacate its judgment.

If the construction contended for by the petitioner is correct, the judgment should be reversed. If either of the other constructions indicated above is correct, the judgment should be affirmed.

While the proper construction of paragraph (d) is not free from doubt, we suggest that the interests of orderly administration in connection with appeals from the Board of Tax Appeals and the disposition of such appeals by the several Circuit Courts of Appeals would be promoted by the construction adopted by the court below. An unlimited choice of venue may well result in overburdening with such appeals courts whose dockets are already overcrowded with such cases, and it is noteworthy that the original House Report in connection with the Revenue Act of 1926 states: "The above provisions[1] as to venue * * * prevent undue burden upon those circuits embracing States

---

[1] The bill discussed in this report, however, did not contain the provisions which became subparagraph (d).

in which a vast number of corporations are organized." House Report No. 1, 69th Cong., 1st Sess. (p. 11, *infra*).

It should be noted, in passing, that while the court below said in its opinion that the taxpayer "has suffered nothing from dismissal," the Circuit Court of Appeals for the Ninth Circuit has indicated that it will not assume jurisdiction of this case because more than six months have expired since the decision, although it concluded that it should not pass upon the question finally until action has been taken by this Court. 44 F. (2d) 376.

CONCLUSION

From the standpoint of the Government the question is of very little importance. From the standpoint of the administration of justice in the Circuit Courts of Appeals we believe it is of importance that the decision below be affirmed.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.

G. A. YOUNGQUIST,
Assistant Attorney General.

CLAUDE R. BRANCH,
J. LOUIS MONARCH,
MORTON K. ROTHSCHILD,
Special Assistants to the Attorney General.

WHITNEY NORTH SEYMOUR,
Attorney.

APRIL, 1931.

APPENDIX A

LEGISLATIVE HISTORY

Extract from Report of House Committee on Ways and Means.

(House Reports, Vol. I, Report No. 1, 69th Congress, 1st Session, page 19)

Court review—Venue.—Under section 912 of the proposed new law the taxpayer is given the right to obtain a review of the board's decision (whether determining a deficiency, dismissing on motion a petition, or assessing damages for frivolous appeal) by the Circuit Court of Appeals of the United States or the Court of Appeals of the District of Columbia. The venue on review in any particular case is designated as follows: (1) In the case of an individual the test is the same as for venue under section 51 of the Judicial Code, except that in the case of the nonresident individual, the decision will be reviewed by the Court of Appeals of the District of Columbia; (2) in the case of partnerships, associations, corporations, trusts, and estates, the review will be given by the court for the circuit in which is located the office of the collector to whom the return was made, a provision similar to that for venue in suits for refunds; and (3) in the case of nonresident or foreign corporations, the Court of Appeals of the District of Columbia will review the decision. The above provisions as to venue relieve the difficulties involved in joint returns and determination of the principal place of business, and further prevent undue burden upon those circuits embracing States in which a vast number of corporations are organized.

Extract from report of the Senate Committee on Finance.

(Senate Reports, Vol. I, Report No. 52, 69th Congress, 1st Session, page 36)

Court review—Venue.—Under the House bill, in cases of corporations, a decision of the board was to be reviewed, in case no return was made, by the circuit court of appeals for the circuit in which is located the office of the collector to whom the corporation should have made the return. Because of the indefiniteness of the law prescribing where a return should be filed, the committee amendment provides that in such case the decision may be reviewed by the Court of Appeals of the District of Columbia. A provision is also inserted permitting the commissioner and the taxpayer, whether individual or corporation, to stipulate the court to which the review will be taken, in order that any doubt as to the proper court may be removed by stipulation, whether before or after the petition is filed.

Extract from conference report.

(House Report, Vol. I, 69th Congress, 1st Session, Report No. 356, page 54)

Amendment No. 151: Under the House bill, in case of a corporation which had failed to make a return, a decision of the board would be reviewed by the circuit court of appeals for the circuit in which is located the office of the collector to whom the corporation should have made the return. The amendment provides that in such case the decision may be reviewed by the Court of Appeals of the District of Columbia, and also provides that the commissioner and the

taxpayer may, in any case, stipulate the court to which the review will be taken, in order to remove any doubt as to the proper court; and the House recedes.

Extract from original House bill (H. R. No. 1, 69th Cong., 1st sess., p. 235):

"SEC. 913. (a) Such decision may be reviewed—

"(1) In the case of an individual, by the Circuit Court of Appeals for the circuit whereof he is an inhabitant, or if not an inhabitant of any circuit, then by the Court of Appeals of the District of Columbia.

"(2) In the case of a person (other than an individual), except as provided in paragraph (3), by the Circuit Court of Appeals for the circuit in which is located the office of the collector of internal revenue to whom such person made the return, and in case such person made no return, then for any circuit in which is located the office of a collector of internal revenue to whom such person should have made the return.

"(3) In the case of a corporation which had no principal place of business or principal office or agency in the United States, then by the Court of Appeals of the District of Columbia.

APPENDIX B

STATUTORY PROVISIONS RELATING TO JURISDICTION OF THE CIRCUIT COURTS OF APPEALS IN VARIOUS CLASSES OF CASES

Act of February 13, 1925, c. 229, 43 Stat. 936, (U. S. C. Title 28, § 225)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 128, 129, 237, 238, 239, and 240 of the Judicial Code as now existing be, and they are severally, amended and reenacted to read as follows:

SEC. 128. (a) The circuit courts of appeal shall have appellate jurisdiction to review by appeal or writ of error final decisions—

"First. In the district courts, in all cases save where a direct review of the decision may be had in the Supreme Court under section 238.

"Second. In the United States district courts for Hawaii and for Porto Rico in all cases.

"Third. In the district courts for Alaska or any division thereof, and for the Virgin Islands, in all cases, civil and criminal, wherein the Constitution or a statute or treaty of the United States or any authority exercised thereunder is involved; in all other civil cases wherein the value in controversy, exclusive of interest and costs, exceeds $1,000; in all other criminal cases where the

offense charged is punishable by imprisonment for a term exceeding one year or by death, and in all habeas corpus proceedings; and in the district court for the Canal Zone in the cases and mode prescribed in the Act approved September 21, 1922, amending prior laws relating to the Canal Zone.

"Fourth. In the Supreme Courts of the Territory of Hawaii and of Porto Rico, in all civil cases, civil or criminal, wherein the Constitution or a statute or treaty of the United States or any authority exercised thereunder is involved; in all other civil cases wherein the value in controversy, exclusive of interest and costs, exceeds $5,000, and in all habeas corpus proceedings.

"Fifth. In the United States Court for China, in all cases.

"(b) The circuit court of appeals shall also have appellate jurisdiction—

"First. To review the interlocutory orders or decrees of the district courts which are specified in section 129.

"Second. To review decisions of the district courts sustaining or overruling exceptions to awards in arbitration, as provided in section 8 of an Act entitled 'An Act providing for mediation, conciliation, and arbitration in controversies between certain employers and their employees', approved July 15, 1913.

"(c) The circuit courts of appeal shall also have an appellate and supervisory jurisdiction under sections 24 and 25 of the Bankruptcy Act of July 1, 1898, over all proceedings, controversies, and cases had or brought in the district courts under that Act or any of its amendments, and shall exercise the same in the manner prescribed in those sections; and the jurisdiction of the Circuit

Court of Appeals for the Ninth Circuit in this regard shall cover the courts of bankruptcy in Alaska and Hawaii, and that of the Circuit Court of Appeals for the First Circuit shall cover the court of bankruptcy in Porto Rico.

"(d) The review under this section shall be in the following circuit courts of appeal: The decisions of a district court of the United States within a State in the circuit court of appeals for the circuit embracing such State; those of the District Court of Alaska or any division thereof, the United States district court, and the Supreme Court of Hawaii, and the United States Court for China, in the Circuit Court of Appeals for the Ninth Circuit; those of the United States district court and the Supreme Court of Porto Rico in the Circuit Court of Appeals for the First Circuit; those of the District Court of the Virgin Islands in the Circuit Court of Appeals for the Third Circuit; and those of the District Court of the Canal Zone in the Circuit Court of Appeals for the Fifth Circuit.

"(e) The circuit courts of appeal are further empowered to enforce, set aside, or modify orders of the Federal Trade Commission, as provided in section 5 of 'An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' approved September 26, 1914; and orders of the Interstate Commerce Commission, the Federal Reserve Board, and the Federal Trade Commission, as provided in section 11 of 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914.

The Act of October 15, 1914, c. 323, 38 Stat. 730, 734-736 (U. S. C. Title 15, § 21)

SEC. 11. * * *

If such person fails or neglects to obey such order of the [Interstate Commerce] commission or [Federal Reserve] board while the same is in effect, the commission or board may apply to the circuit court of appeals of the United States, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission or board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission or board. * * *

* * * * * * *

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission or board shall be exclusive.

The Act of Sept. 26, 1914, c. 311, 38 Stat. 717, 719-722 (U. S. C. Title 16, §§ 45, 46)

SEC. 5. * * *

If such person, partnership, or corporation fails or neglects to obey such order of the commission while the same is in effect,

the [Federal Trade] commission may apply to the circuit court of appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. * * *

Any party required by such order of the commission to cease and desist from using such method of competition may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission as in the case of an application by the commission for the enforcement of its order, and the findings of the commission as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission shall be exclusive.

The Act of Sept. 21, 1922, c. 369, 42 Stat. 998, 1002 (U. S. C. Title 7, § 9)

SEC. 6 (b).

* * * After the issuance of the order by the [Grain Futures Act] commission, as

aforesaid, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States circuit court of appeals of the circuit in which the petitioner is doing business a written petition praying that the order of the commission be set aside.

The Act of August 15, 1921, c. 64, 42 Stat. 159, 162–163 (U. S. C. Title 7, § 194)

SEC. 204.

(a) An order made [by the Secretary of Agriculture] under section 203 shall be final and conclusive unless within thirty days after service the packer appeals to the circuit court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer will pay the costs of the proceedings if the court so directs.

* * * * *

(h) The circuit court of appeals shall have exclusive jurisdiction to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 240 of the Judicial Code, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the circuit court of appeals, in so far as such decree op-

erates as an injunction, unless so ordered by the Supreme Court.

(i) For the purposes of this title the term "circuit court of appeals," in case the principal place of business of the packer is in the District of Columbia, means the Court of Appeals of the District of Columbia.

Revenue Act of 1926, c. 27, 44 Stat. 9, 109–110

SEC. 1001. (a) The decision of the Board [of Tax Appeals] rendered after the enactment of this Act (except as provided in subdivision (j) of section 283 and in subdivision (h) of section 318) may be reviewed by a Circuit Court of Appeals, or the Court of Appeals of the District of Columbia, as hereinafter provided, if a petition for such review is filed by either the Commissioner or the taxpayer within six months after the decision is rendered.

(b) Such courts are authorized to adopt rules for the filing of such petition, the preparation of the record for review, and the conduct of proceedings upon such review and, until the adoption of such rules, the rules of such courts relating to appellate proceedings upon a writ of error, so far as applicable, shall govern.

* * * * * *

(U. S. C. App., Title 26, Sec. 1224.)

VENUE

SEC. 1002. Such decision may be reviewed—

(a) In the case of an individual, by the Circuit Court of Appeals for the circuit whereof he is an inhabitant, or if not an inhabitant of any circuit, then by the Court of Appeals of the District of Columbia.

(b) In the case of a person (other than an individual), except as provided in subdivision (c), by the Circuit Court of Appeals for the circuit in which is located the office of the collector to whom such person made the return, or in case such person made no return, then by the Court of Appeals of the District of Columbia.

(c) In the case of a corporation which had no principal place of business or principal office or agency in the United States, then by the Court of Appeals of the District of Columbia.

(d) In the case of an agreement between the Commissioner and the taxpayer, then by the Circuit Court of Appeals for the circuit or the Court of Appeals of the District of Columbia, as stipulated in such agreement.

(U. S. C. Sup. IV, Title 26, Sec. 1225.)

JURISDICTION

SEC. 1003. (a) The Circuit Courts of Appeals and the Court of Appeals of the District of Columbia shall have exclusive jurisdiction to review the decisions of the Board (except as provided in section 239 of the Judicial Code, as amended); and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 240 of the Judicial Code, as amended.

(b) Upon such review, such courts shall have power to affirm or, if the decision of the Board is not in accordance with law, to modify or to reverse the decision of the Board, with or without remanding the case for a rehearing, as justice may require.

(U. S. C. Sup. IV, Title 26, Sec. 1226.)

U. S. GOVERNMENT PRINTING OFFICE, 1924